

TIPPECANOE COUNTY BOARD OF COMMISSIONERS
REGULAR MEETING
March 5, 2007

The Tippecanoe County Commissioners met on Monday, March 5, 2007 at 10:00 a. m. in the Tippecanoe Room in the County Office Building. Commissioners present were: President KD Benson, Vice President John L. Knochel, and Member Ruth E. Shedd. Also present were: Auditor Jennifer Weston, Commissioners' Assistant Frank Cederquist, County Attorney David W. Luhman, and Secretary Jennifer Prange.

President Benson called the meeting to order and led the Pledge of Allegiance.

APPROVAL OF MINUTES

- Commissioner Knochel moved to approve minutes from the February 20, 2007 meeting, second by Commissioner Shedd; motion carried.

ACCOUNTS PAYABLE

Commissioners' Assistant Frank Cederquist requested approval for accounts payable vouchers dated February 22, 23, 27, March 1, 2, and 5 without exception.

- Commissioner Shedd moved to approved accounts payable voucher as presented, second by Commissioner Knochel; motion carried.

HIGHWAY: Opal Kuhl

Director Opal Kuhl presented a street acceptance for Blackthorne Phase 2, Part 1 streets and three year maintenance bond in the amount of \$27,784.30.

- Commissioner Knochel moved to approve the acceptance of streets as presented with the maintenance bond, second by Commissioner Shedd; motion carried.

Director Kuhl also presented a Tipmont REMC continuation certificate bond in the amount of \$5,000 for work in the right-of-way.

- Commissioner Knochel moved to approve the continuation bond for Tipmont REMC, second by Commissioner Shedd; motion carried.

Bid Openings for US52 and 300W Intersection

County Attorney Dave Luhman noted that two bids were received and read as follows:

<u>Milestone</u>	<u>Reith Riley</u>
\$316,700.00	\$283,972.41

Attorney Luhman suggested that these bids be taken under advisement for review and compliance with the bid specifications.

- Commissioner Knochel moved to take bids received under advisement, second by Commissioner Shedd; motion carried.

Subdivision Variance S-3927 Campus Suites

- Commissioner Knochel moved to hear subdivision variance S-3927 Campus Suites Subdivision,(Major Preliminary Plat), second by Commissioner Shedd; motion carried

Attorney Joe Bumbleburg spoke on behalf of the petitioner to request a variance to waive the required turnaround at the end of Paramount Drive. Attorney Bumbleburg presented a sketch of the subdivision variance and noted that appropriate accommodations have been made for this variance.

- Commissioner Knochel moved to approve the variance as presented, second by Commissioner Shedd; motion carried.
- Commissioner Knochel moved to hear and approve rezone Z-2320 Robert L. Meister (The Greens PD) (R1 to PDRS) Ordinance 2007-11-CM, second by Commissioner Shedd; motion carried.

(quote)

February 22, 2007

Ref. No.: 07-068

Tippecanoe County Commissioners
20 N 3rd Street
Lafayette, IN 47901

CERTIFICATION

RE: Z-2320—ROBERT L. MEISTER (The Greens PD)
(R1 to PDRS): Developer, with consent of owner, is requesting PDRS zoning for a large lot, single-family residential project with 21 home sites located on a former golf course. The site is located on SR 26 W at the Par View Golf Course, Wabash 15 (SE & NE) 23-5.

Dear County Commissioners:

As Secretary to the Area Plan Commission of Tippecanoe County, I do hereby certify that at a public hearing held on February 21, 2007, the Area Plan Commission of Tippecanoe County voted 12 yes - 0 no on the motion to rezone the subject real estate from R1 to PDRS. Therefore, the Area Plan Commission of Tippecanoe County recommends to the Tippecanoe County Commissioners that the proposed rezoning ordinance be APPROVED for the property described in the attachment, contingent on meeting all requirements of *UZO 2-27-10* for submission of Final Detailed Plans, signed off by those noted in that section to include:

1. All sheets (other than preliminary plat) that make up the approved Preliminary

Plan;

2. PD construction plans per UZO Appendix B2-2;
3. A final plat per UZO Appendix B-3-2 as applicable;
4. Appropriate performance bonds submitted with final detailed plans;
5. Street names approved by the post office, 911 and APC;
6. A "No Vehicular Access" statement platted along the CR 325 W right-of-way;
7. A "No Vehicular Access" statement platted along the easement for Winwood Drive at the rear lot lines of Lots 9-12.
8. Include approved plant schedule, planting instructions and tree protection plan as developed by the West Lafayette Greenspace Administrator;
9. Provide a sign drawing that shows the development's monument entrance sign in the center planting bed with a message area not to exceed 48 sq. ft., to be reviewed and approved by the APC and Tippecanoe County Building Commission staff. Said sign shall not be located within the vision triangle.

Restrictive Covenants – The following items shall be part of the planned development's covenants made enforceable by the Area Plan Commission and irrevocable by the lot owners:

10. A "No Vehicular Access" statement platted along the CR 325 W right-of-way;
11. A "No Vehicular Access" statement platted along the easement for Winwood Drive at the rear lot lines of Lots 9-12;

Additional Conditions:

12. A copy of the Articles of Incorporation for the Home Owners Association of The Greens Planned Development Inc., approved and filed with the Indiana Secretary of State, along with the Certificate of Incorporation.

Public Notice has been given that this petition will be heard before the Tippecanoe County Commissioners at their March 5, 2007 regular meeting. Petitioners or their representatives must appear to present their case.

Sincerely,
/s/Sallie Dell Fahey
Executive Director

(unquote)

Paul Coates from C&S Engineering spoke on behalf of the petitioner to request rezoning to develop a single-family project with 21 home sites. Mr. Coates added that the property used to be a small golf course and contains lots of trees and the intention of the petitioner is to build the planned development around as many trees as possible.

Auditor Weston recorded the vote:

Benson – Yes
Shedd – Yes
Knochel – Yes

- Ordinance 2007-11-CM passed 3-0.

SOAP BOX DERBY/SKATE PARK

Attorney Luhman read Resolution 2007-07-CM into the record to support the efforts of the Soap Box Derby/Skate Park.

- Commissioner Knochel moved to approve Resolution 2007-07-CM, seconded by Commissioner Shedd; motion carried.

VACATION OF EASEMENT

Attorney Joe Bumbleburg presented a request for Vacation of Easement. He noted that a 20 foot easement is located between two lots. Attorney Bumbleburg added that engineers have surveyed the area and concluded that this is not a relief area for drainage and is hereby requesting a rezone.

- Commissioner Knochel moved to approve Ordinance 2007-13-CM, second by Commissioner Shedd.

Auditor Weston recorded the vote:

Benson – Yes
Shedd – Yes
Knochel – Yes

- Ordinance 2007-13-CM passed 3-0.

BUILDING COMMISSION: Ron Highland

Unsafe Structure

For the record: County Attorney Dave Luhman left the meeting and was replaced by Attorney Jay Seeger.

Building Commissioner Ron Highland and Attorney Jay Seeger presented new information in the case of an unsafe structure in West Lafayette. Commissioner Highland stated that no significant progress had been made on this case court case or pending litigation recently and he stressed the importance of the county's liability in the case. Attorney Seeger noted that the commissioners agreed to fine Pat Richard \$5,000 if he had not made progress in this case by March 5, 2007. Commissioner Highland noted that on a recent visit to the structure individuals were found inside the perimeter. Attorney Seeger informed the commissioners that a lawsuit has been filed against them to prevent any demolition of the structure. Attorney Seeger was unsure of all the details involved in the lawsuit since it had just been received before the meeting.

Mr. Richard provided an engineer's report to the commissioners' which demonstrates the effects of how the structure would fall. Mr. Richard added that he has started the process of condemning the building, and noted that he is insured in the event the structure should fail. He stated that currently his legal council is scheduling depositions for the case. He stressed that he has taken all necessary steps to further this case in the court system and at this point his hands are tied.

Attorney Seeger mentioned that this case has been filed for over a year with no development. He stressed the importance of the commissioner's liability in the event the building collapses. Attorney Seeger added that Mr. Richard's insurance would not cover the county in any lawsuit

filed against them. He then advised the commissioners consider all the information presented as they progress further with this case.

- Commissioner Knochel moved to continue the hearing on this case to the April 2, 2007 meeting; motion died for a lack of second.
- Commissioner Shedd moved to impose the \$5000 fine, and requests proof of insurance from the owner that names the commissioners as insured and also provide a court date; all by April 2, 2007 meeting, second by Commissioner Benson; motion carried.

Attorney Seeger noted that for the purpose of the unsafe building act, the commissioners are required to adopt findings. Attorney Seeger read the findings into the record.

FINDINGS, AFFIRMATION OR ORDER, AND IMPOSITION OF CIVIL PENALTY

The Tippecanoe County Board of Commissioners, with respect to the property located at 3324-3336 Wyndham Way, West Lafayette, Indiana, makes the following findings:

1. The property located at 3324-3336 Wyndham Way, West Lafayette, Indiana (Key Number 134-06515-0087) (hereafter referred to as the "Property") is located in the unincorporated area of Tippecanoe County, Indiana.
2. The Property is owned by Canyon Creek Holdings, LLC. Mortgages on the Property are held by Lafayette Savings Bank, FSB.
3. On December 21, 2006, Ronald L. Highland, for the Tippecanoe County Building Commission, issued an Unsafe Building Ordinance Violation Order (hereafter referred to as the "Order") with respect to a four (4) unit apartment building (hereafter referred to as the "Building") located on the Property.
4. A copy of the Order was mailed via certified mail, return receipt requested to Canyon Creek Holdings, LLC and Lafayette Savings Bank, FSB on December 21, 2006. The Order was received by Canyon Creek Holdings, LLC on December 22, 2006 and by Lafayette Savings Bank, FSB, on December 22, 2006. The notice requirements of Indiana Code section 36-7-6-25 have been complied with.
5. The Building has been inspected by the Tippecanoe County Building Commission, and the Building Commission has determined that the Building is in danger of structural failure and is uninhabitable.
6. The Building has been inspected at the request of the owner by Andrew S. Switzer, P.E. and he has provided a written opinion that the Building is in danger of structural failure and is uninhabitable.
7. The Building is experiencing differential settlement with resulting stress and strain. The Building's brick veneer on the north side is showing major settlement cracking. The "LEAN" of the Building is reducing the capacity of the structure to resist wind loads. In comparing the potential force on the structure to the shear capacity of the structure, the structure is currently at its maximum limit and is in danger of failing during a severe wind storm.
8. The Building will probably never stop settling due to the organic soil beneath the Building.
9. The Building is manifestly unsafe for occupancy as a four (4) unit apartment building.
10. The owner of the Property, the mortgagee of the Property, and their representatives were been given due opportunity to appear and present evidence, cross-examine opposing witnesses, and present arguments.

11. The Building is an unsafe building under Indiana Code section 36-7-9-4(a).
12. The Property is an unsafe premises under Indiana Code section 36-7-9-4(b).
13. The Building is an unsafe building under Tippecanoe County Code of Ordinances section 156.02(A).
14. The Building is a public nuisance under Tippecanoe County Code of Ordinances section 156.03.
15. The Unsafe Building Ordinance Violation Order issued by the Tippecanoe County Building Commission on December 21, 2006, is affirmed.
16. Canyon Creek Holdings, LLC has willfully failed to comply with the Order.
17. A civil penalty of five thousand dollars (\$5,000.00) is imposed on Canyon Creek Holdings, LLC pursuant to Indiana Code section 36-7-9-7(e) as a result of its willful failure to comply with the Order.

APPROVED AND ADOPTED on March 5, 2007.

THE BOARD OF COMMISSIONERS OF
THE COUNTY OF TIPPECANOE

- Commissioner Shedd moved to approve the findings as presented, second by Commissioner Benson; motion carried.

For the record: Attorney Jay Seeger has left the meeting and County Attorney Dave Luhman has entered.

TREASURER: Bob Plantenga

Treasurer Bob Plantenga presented a contract for approval with Certified IT, LLC. Treasurer Plantenga noted that this company offers credit card payments online with added benefits and reduced fees for taxpayers. He stated that this would not replace the Official Payment system now offered but will provide another option for the county and taxpayers.

- Commissioner Knochel moved to approve the contract for Certified IT LLC, second by Commissioner Shedd; motion carried.

Treasurer Plantenga presented a proposal for professional services from Financial Solutions Group, Inc. The scope of work includes review of the cash management practices and banking service practices of the county and to provide recommendations to the treasurer. Treasurer Plantenga added that the county has worked with Financial Solutions Groups in the past and recommends that the commissioners approve this proposal.

- Commissioner Knochel moved to approve the proposal for professional services, second by Commissioner Shedd; motion carried.

TIPPECANOE VILLA APPLICATION

- Commissioner Knochel moved to approve the application for Patricia A. Stoltz, second by Commissioner Shedd; motion carried.

PTABOA BOARD APPOINTMENTS

- Commissioner Knochel moved to appoint Gail McIntyre and Cathi Gould to the PTABOA Board for 2007, second by Commissioner Shedd; motion carried.

APPOINTMENTS TO COMMUNITY CORRECTIONS BOARD

- Commissioner Shedd moved to appoint Darren Dunham to the Community Corrections Board, second by Commissioner Knochel; motion carried.

APPOINTMENTS TO THE COMMON WAGE BOARD

- Commissioner Knochel moved to appoint Dave Lahr to the West Lafayette Common Wage Board, second by Commissioner Shedd; motion carried.

UNFINISHED/NEW BUSINESS

Commissioner Benson presented an Indiana Criminal Justice Institute grant for approval for the Prosecutor's office.

- Commissioner Knochel moved to approve the grant, second by Commissioner Shedd; motion carried.

Commissioner Benson also presented a copier contract/lease agreement for Fairfield Township Assessor's office.

- Commissioner Knochel moved to approve the copier contract/lease agreement, second by Commissioner Shedd; motion carried.

REPORTS ON FILE

Reports on file include the Clerk's Annual Report 2006, Mail and Duplicating for February, Parks Department, Weights and Measures, and Tippecanoe County Public Library.

PUBLIC COMMENT

Fairfield Township Assessor Jan Payne requested information regarding the Appellate Services Contract for the assessors. She noted that to date the contract had not been signed by the county assessor and added that she is concerned about the time lost on settling these appeals.

Commissioner Benson called for a five minute recess in an attempt to clarify the situation with the county assessor.

County Assessor Samantha Steele mentioned that her previous concerns regarding the Appellate Services contract had been addressed by County Attorney Dave Luhman and added that she will endorse the contract.

TIPPECANOE COUNTY EMERGENCY MEDICAL SERVICES: Scott Wood

Tippecanoe County Emergency Medical Services Director Scott Wood presented a report of activities for the ambulance service in 2006. He noted that in 2005 the county started to experience urban growth on the south end of Lafayette and also in West Lafayette. Director Wood added that additional ambulance services are stationed in those locations and providing the community with quicker response to medical emergencies. Director Wood informed the commissioners that studies are done throughout the year to provide the county with the best possible emergency response service and added that he will continue to update the board as needed. Lastly, he expressed his gratitude for the quick and efficient response of the Highway Department and TEMA during the snow emergency.

- Commissioner Knochel moved to adjourn.

**BOARD OF COMMISSIONERS OF
THE COUNTY OF TIPPECANOE**

 KD Benson, President

 John L. Knochel, Vice President

 Ruth E. Shedd, Member
ATTEST:

 Jennifer Weston, Auditor